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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,519	04/03/2006	Donald C. Boyle	2835-75368	6952
23643	7590	07/31/2007		
BARNES & THORNBURG LLP 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			EXAMINER MCPARTLIN, SARAH BURNHAM	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 07/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/574,519

Applicant(s)

BOYLE ET AL.

Examiner

Sarah B. McPartlin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38, 42, 43 and 47-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38, 42, 43 and 47-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/3/06</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information referred to in the information disclosure statements filed on April 3, 2006 has been considered as to the merits.

### ***Specification***

2. The disclosure is objected to because of the following informalities: The blank space located on page 29 should be filled in with the appropriate application number.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-10, 12, 29, 35, 47, 50-51 and 53-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Rhein et al. (6,450,576). With respect to claim 1, Rhein et al. disclose a device for restraining a passenger in a vehicle seat (190) comprising a back portion (192) and a seat portion (194) which define a bight (unlabeled) there between, the device comprising: a portable booster seat (10), a mounting assembly (300a)(300b)(350) attached to the booster seat (10) and configured to mount the booster seat to the vehicle seat (190) with the booster seat (10) positioned

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on the seat portion (194), and a restraint assembly (11) attached to the booster seat (10) and to the mounting assembly (300a)(330b)(350), by way of booster seat back (unlabeled), the restraint assembly (11) configured to restrain a passenger positioned on the portable booster seat (10).

With respect to claim 2, the mounting assembly (350)(300a)(300b) comprises one or more webs (308)(308)(357) configured to mount the booster seat (10) to the vehicle seat (190).

With respect to claim 3, the one or more webs (308a)(308b)(357) are configured to wrap around at least a portion of the back portion (192) of the vehicle seat (190), as is best depicted in Figure 4 where web (357) wraps around a top edge of vehicle seat back (192).

With respect to claim 4, at least one (308a) of the one or more webs (308a)(308b)(357) has a first connector (302a) configured to engage a first anchorage (315) attached to the vehicle.

With respect to claim 5, the first anchorage (315a) comprises an anchorage member attached to the vehicle by way of the seat (190).

With respect to claim 6, the first anchorage (315a) comprises an anchorage member attached to the vehicle seat (190).

With respect to 7, the first anchorage (315a) is disposed in the bight of the vehicle seat (190).

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With respect to claim 8, at least one (308b) of the one or more webs (308a)(308b)(357) has a second connector (302b) configured to engage a second anchorage (315b) attached to the vehicle by way of the seat (190).

With respect to claim 9, the second anchorage (315b) is disposed in the bight of the vehicle seat (190).

With respect to claim 10, wherein at least one (357) of the one or more webs (308a)(308b)(357) has a third connector (351) to engage a third anchorage (360) attached to the vehicle.

With respect to claim 12, the booster seat (10) further comprises a first connector (302a) attached thereto, by way of first web (208a), and configured to engage a first anchorage (315a) attached to the vehicle.

With respect to claim 29, the restraint assembly (11) includes a web height adjuster in the form of multiple slots formed in the back portion of booster seat (10), which allows for the height adjustment of shoulder straps (86).

With respect to claim 35, Rhein et al. discloses a device for restraining a passenger in a vehicle seat (190) comprising a back portion (192) and a seat portion (194) which define a bight there between, the device comprising: a portable booster seat (10) having one or more connectors (302a)(302b) attached thereto configured to engage one or more anchorages (315a)(315b) attached to the vehicle, a mounting assembly (350) attached to the booster seat (10) and having one or more webs (357) configured to wrap around at least a portion of the back portion 192) to mount the device to the vehicle seat (190) and a multiple-point restraint assembly (11) coupled to

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the booster seat (10) and configured to restrain a passenger positioned on the portable booster seat (10).

With respect to claim 47, Rhein et al. discloses a restraint system for restraining a passenger in a vehicle seat (190) having a seat portion (194) and a back portion (192) defining a bight (unlabeled) there between, the restrain system comprising: a portable seat base (10) configured to be positioned on the seat portion (194) of the vehicle seat (190) and support the passenger in a seat position thereon, a mounting assembly (300a)(300b)(350) coupled to the seat base (10) and configured to mount to the vehicle seat (190) and a restraint assembly (11) coupled to the seat base (10) and to the mounting assembly (300a)(300b)(350), by way of the seat base (10), configured to restrain the passenger positioned on the seat base (10).

With respect to claim 48, the mounting assembly (300a)(300b)(350) is configured to wrap around at least a portion of the back portion (192) of the vehicle seat (190).

With respect to claim 50, the back portion (192) of the vehicle seat (190) defines a bottom portion adjacent the bight and a top portion, and wherein the mounting assembly (300a)(300b)(350) is configured to extend over the top portion of the back portion (192) of the vehicle seat (190) and into engagement with an anchorage member (360).

With respect to claim 51, the anchorage member (360) is mounted to a vehicle carrying the vehicle seat (190) and the restraint system (11).

With respect to claim 53, the mounting assembly (300a)(300b)(350) is mounted to at least one anchorage (315a)(315b) disposed in the bight of the vehicle seat (190).

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With respect to claim 54, the restraint assembly (11) comprises a multiple-point restraint harness.

5. Claims 1-7 and 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Zubeck (5,299,855). With respect to claim 1, Zubeck discloses a device (8) for restraining a passenger in a vehicle seat (12) comprising a back portion (14) and a seat portion (16) which define a bight (unlabeled) there between, the device (8) comprising: a portable booster seat (18); a mounting assembly (24)(26)(26)(50) attached to the booster seat (18) and configured to mount the booster seat (18) to the vehicle seat (12) with the booster seat (18) positioned on the seat portion (16), and a restraint assembly comprising the front portions of straps (26), elements (28) and (38) attached to the booster seat (18) and to the mounting assembly (24)(26)(26)(50), the restraint assembly configured to restrain a passenger positioned on the portable booster seat (18).

With respect to claim 2, the mounting assembly (24)(26)(26)(50) comprises one or more webs (26)(26) configured to mounted the booster seat (18) to the vehicle seat (12).

With respect to claim 3, the one or more webs (26)(26) are configured to wrap around at least a portion of the back portion (14) of the vehicle seat (12).

With respect to claim 4, the one or more webs (26) has a first connector (unlabeled), in the form of a loop as shown in Figure 6, configured to engage a first anchorage (50) attached to the vehicle.



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With respect to claim 5, the first anchorage (50) comprises an anchorage member attached to the vehicle, by way of seat (12).

With respect to claim 6, the first anchorage (50) comprises an anchorage member attached to the vehicle seat.

With respect to claim 7, the first anchorage (50) is disposed in the bight of the vehicle seat.

With respect to claim 30, the mounting assembly comprises a positioning member (50) configured to receive there through the one of more mounting webs (26).

With respect to claim 31, the positioning member (50) is coupled to the back portion (14) of the vehicle seat (12).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhein et al. (6,450,576) in view of Burleigh (US 2003/00407972 A1). As disclosed above, Rhein et al. reveals all claimed elements with the exception of a booster seat comprising one or more appendages defining one or more belt receiving channels for receipt of a belt system integral with a vehicle.



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Burleigh discloses one or more appendages (24) that define one or more belt receiving channels (76)(78) configured to receive one or more belts (82)(84) of a vehicle seat belt system (unlabeled).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add the appendages taught by Burleigh to the backside of booster seat (10) disclosed by Rhein et al. Such a modification would provide the user with the option of a back-up connection between the booster seat (10) and the vehicle seat (190) and would also enable the user to operate the booster seat device in a vehicle that does not have anchorage members (315a)(315b)(360).

8. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhein et al. (6,450,576) in view of Bolcerek (4,927,211). As disclosed above, Rhein et al. reveals all claimed elements with the exception of a four-point restraint system comprising a chest strap and a torso support assembly.

Bolcerek discloses a 5-point restraint harness, which therefore incorporates a four-point system, including a chest strap (340 and a torso support assembly (12)(14).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the restraint assembly (11) disclosed by Rhein et al. to be a five-point system with a torso support and chest strap as taught by Bolcerek. Such a modification would improve the safety of the seat occupant by more securely positioning the occupant within the booster seat (10).

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9. Claims 18-19 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhein et al. (6,450,576) in view of Bisch (6,601,804). As disclosed above, Rhein et al. reveals all claimed elements with the exception of a restraint assembly including a lateral support assembly with a pair of moveable wings wherein the wings are retained in any position without engaging a locking mechanism.

Bisch et al. teaches the use of a portable headrest (10), which constitutes a lateral support assembly. The lateral support assembly comprises a pair of movable wings (32) and (33) which are adjustable and held in position without the use of a lock.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add the portable headrest (10) as taught by Bisch to the booster seat (10) disclosed by Rhein et al. Such a modification would prevent the seat occupants head from swinging side to side in areas of rough terrain or while the seat occupant is sleeping, thereby improving seat occupant comfort.

10. Claims 32 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhein et al. (6,450,576) in view of Gain (Des. 353,947). As disclosed above, Rhein reveals all claimed elements with the exception of two or more booster seats with associated mounting assemblies and restraint assembly rigidly connected together.

Gain discloses two booster seats, according to claim 32, or seat bases, according to claim 55, rigidly coupled side by side. Each seat has its own restraint assembly coupled thereto.

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It would have been obvious to one of ordinary skill in the art at the time of the instant invention to replace the booster seat or base (10) disclosed by Rhein et al. with the double booster seat taught by Gain. Such a modification would enable two seat occupants to utilize the three anchorages, thereby expanding the capacity and capability of the fixed anchorages.

11. Claims 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rhein et al. (6,450,576) in view of Littlehorn et al. (US 2005/0110315 A1). As disclosed above, Rhein et al. reveals all claimed elements with the exception of a cover configured to enclose at least a portion of the mounting assembly.

Littlehorn et al. teach the use of a cover (100) for positioning on a booster seat (208). The cover (100) wraps around the sides of the booster seat (208) and covers portions of the back of the booster seat as disclosed in Figure 3.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to place the cover (100) as taught by Littlehorn et al. over the booster seat (10) disclosed by Rhein et al. Such a modification would prevent the booster seat from getting soiled and scratched.

12. Claims 36-37 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Zubeck (5,299,855). As disclosed above, Zubeck reveal all claimed elements with the exception of the method steps of placing, passing, passing, securing and attaching. The structure of Zubeck makes the claimed method steps obvious. The structure

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clearly shows that the booster seat (18) is placed on seat (16), webs (26) are passed over back (14) and secured to the seat (12) by way of positioning member (50) and the restraint system is attached to the booster seat (18) at buckle (18).

13. Claims 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zubeck (5,299,855) in view of Littlehorn et al. (US 2005/0110315 A1). As disclosed above, Zubeck, as modified, reveals all claimed elements with the exception of a cover configured to enclose at least a portion of the mounting assembly.

Littlehorn et al. teach the use of a cover (100) for positioning on a booster seat (208). The cover (100) wraps around the sides of the booster seat (208) and covers portions of the back of the booster seat as disclosed in Figure 3.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to place the cover (100) as taught by Littlehorn et al. over the booster seat (12) disclosed by Zubeck. Such a modification would prevent the booster seat from getting soiled and scratched.

14. Claims 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhein et al. (6,450,576). As disclosed above, Rhein reveals all claimed elements with the exception of the specifically claimed method steps of placing, engaging and attaching. The structure disclosed by Rhein would make the method steps of "placing" the booster seat (10) on the top surface (unlabeled) of the seat portion (192), "engaging" the connectors (302a) and (302b) to an anchorage (315a) and (315b)

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located in the bight of the seat (190) and "attaching" a passenger restraint system (11) to the booster seat (10), obvious.

15. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rhein et al. (6,450,576) in view of Skold et al. (5,121,965). As disclosed above, Rhein et al. reveals all claimed elements with the exception of a mounting system that is further configured to extend under a seat portion from the rear toward the front thereof and then upwardly into engagement with the seat base.

Skold et al. discloses a mounting web (5) that extends under the seat portion (11) of a vehicle seat and into engagement with a seat base (3)(4).

It would have been obvious to one of ordinary skill in the art to add a mounting web as taught by Skold et al. to the mounting system disclosed by Rhein et al. Such a modification would help position the base more securely on the vehicle seat.

16. Claims 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rhein et al. (6,450,576) in view of Duncan (6,481,800). As disclosed above, Rhein et al. reveals all claimed elements with the exception of an anchorage member mounted to the back of the back portion of the vehicle seat.

Duncan discloses an anchorage member (63) disclosed on a backside of a vehicle seat back to which a web member (32) is mounted.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to mount use the restraint system disclosed by Rhein et al. in a vehicle

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seat that has an anchorage located on a backside thereof. Therefore, the restraint system would still be applicable to a row of vehicle seats that does not have a back shelf located there behind as is the case with Rhein et al.

### ***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Lambert et al. (6,089,622); Howell (5,641,200); Abe et al. (3,992,028) and Lumley (EP 0650 872 A1).

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/  
Patent Examiner  
Art Unit 3636

SBM  
July 25, 2007